REMARKS

The non-final Office Action dated September 3, 2009, notes that claims 44-50 are withdrawn and listed the following: claims 1, 5, 8, 10-12, 14, 17, 31, 39 and 41-43 are objected to due to informalities; claims 42 and 43 stand rejected under 35 U.S.C. § 101; claims 1-3, 5-7, 9-10, 14-16, 23-39 and 41-43 stand rejected under 35 U.S.C. § 102(e) over McLaren (U.S. Patent No 6,064,794); claims 4, 11-12, 17-19 and 21-22 stand rejected under 35 U.S.C. § 103(a) over the '794 reference in view of Gupta (U.S. Patent No.7,313,808); claims 8, 13 and 20 stand rejected under 35 U.S.C. § 103(a) over the '794 reference in view of Birmingham (U.S. Patent No.6,868,224); claim 40 stands rejected under 35 U.S.C. § 103(a) over the '794 reference in view of Lane (U.S. Patent No. 6,141,486). Applicant traverses all of the rejections and, unless explicitly stated by the Applicant, does not acquiesce to any objection, rejection or averment made in the Office Action.

Regarding the objection to claims 10-11, Applicant has amended the claims in a manner that overcomes the objection. Applicant submits that the amendments are consistent with how the claims would have been interpreted by the skilled artisan prior to the amendments.

Regarding the objection to claim 43, Applicant has cancelled claim 43 in deference to amendments to claim 42.

Applicant respectfully traverses the objections of claims 1, 5, 8, 10-12, 14, 17, 31, 39 and 41-42 because the Office Action has applied the wrong standard of review and because the terms "substantially," "sufficiently," and "about" are generally accepted terms. Applicant respectfully submits that a proper basis for the objection has not been presented as there is no requirement that claim limitations be "exact." As explained in M.P.E.P. § 2173.05(b), the claim limitations need only be understandable by the skilled artisan, in light of the specification. This M.P.E.P. section further explains that these types of terms have each been upheld as definite. For instance, the court upheld limitations directed toward "exceeding about 10% per second" because, as here, it was easily be measured. The court has also upheld the use of the term substantially where it was used in limitations directed toward aspects that "substantially increase the efficiency," because, as here, the specification provided general guidelines (*e.g.*, examples of trick play speeds relative to regular speeds). The term

"sufficiently" is also not unclear as the skilled artisan would understand the bounds of the limitation as further clarified by examples provided in Applicant's specification (*e.g.*, 8 frames at 4x speed). Accordingly, there is not sufficient basis to maintain the objections and Applicant requests that they be removed.

Regarding the rejection of claim 42 under 35 U.S.C. § 101, Applicant has amended the claim to recited a physical object functionally-linked to a processor in a manner consistent with U.S.P.T.O. guidelines. Applicant requests that the rejection be removed.

Turning now to the rejections under 35 U.S.C. § 102(e) in view of the '794 reference, Applicant respectfully traverses the rejections for lack of correspondence. Applicant has reviewed the identified portions of the '794 reference and submits that the '794 reference is substantially unrelated to Applicant's claimed invention. In pertinent part, the '794 reference is directed toward providing parallel streams, at least some of which are trick play streams. When a user wishes to implement a trick play mode (*e.g.*, fast forward), the system switches to appropriate trick play stream (*see, e.g.*, FIG. 2 and relevant discussion describing separate streams for each play mode). Applicant is unable to discern how such stream switching is relevant to the claimed invention. As the Office Action does not explain the rationale behind the rejection (*e.g.*, by identifying the alleged correspondence to elements such as trick play clips or fast skim clips), there is not a *prima facie* case for the rejection.

More specifically, aspects of Applicant's claimed invention are directed toward a single performance, having a multitude of frames, used for both normal operation and trick play modes. For trick play operation, the performance is separated into trick play clips separated by fast skim clips, the fast skim portions allowing for skimming in a trick play mode. Moreover, the trick play clips and fast skim clips each contain multiple subsequent frames, the trick play clips alternating with the fast skim clips in the normal direction of play. As the '794 reference implements a trick play mode by simply playing one of several possible streams, there is no correspondence to these and other limitations. For instance, the Office Action fails to identify and/or clearly articulate correspondence to both trick play clips and fast skim clips arranged as claimed. As such, there is not a *prima facie* case for the rejection because the cited portions fail to show correspondence to each limitation.

Moreover, Applicant expresses some confusion over the various other assertions of correspondence as the '794 reference does not teach both trick play clips and fast skim clips. As the '794 reference does not describe, nor has the Office Action identified, both trick play clips and fast skim clips (arranged as claimed), the assertions regarding specific details thereof (*e.g.*, relative play speeds) are illogical and unsupported by the record.

Moreover, the '794 reference does not store indications of both trick play mode clips and fast skim clips as the '794 reference simply uses multiple, substantially independent, streams.

Notwithstanding, Applicant has introduced facilitating amendments to claim 1. Embodiments of Applicant's invention are directed toward a trick play mode that operates at a given speed (*e.g.,* x16 play). To implement this trick play mode, trick play clips are played at a slower speed (*e.g.*, x8 or lower). As explained in Applicant's specification, the overall play speed of the trick play mode is maintained by playing the fast skim clips at a rate higher than the speed of the trick play mode. The amendments include limitations directed toward the relationship between these speeds.

For at least the aforementioned reasons, Applicant respectfully submits that the rejection is improper and requests that it be withdrawn.

Regarding the rejections under 35 U.S.C. § 103(a), none of the cited secondary references cure the deficiencies of the primary '794 reference. As such, the rejections are *prima facie* invalid. Moreover, the alleged combinations are not understood as the '794 reference is directed toward selecting between different streams and therefore does not contain both trick play clips and skim play clips arranged and/or used as claimed. Accordingly, modifications that are alleged to correspond to aspects thereof do not make sense. As such each of the rejections under 35 U.S.C. § 103(a) is improper and Applicant requests that they be withdrawn.

In view of the remarks above, Applicant believes that each of the rejections/objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Juergen Krause-Polstorff, of NXP Corporation at (408) 474-9063.

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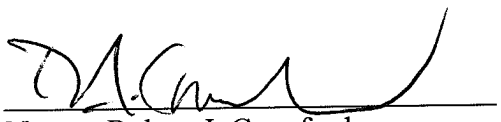
By: 

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